

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES))
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.) 4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al,)
Defendants.)

THE VIDEOTAPED DEPOSITION OF
JAY CHURCHILL, produced as a witness on behalf of
the Plaintiff in the above styled and numbered
cause, taken on the 5th day of February, 2009, in
the City of Tulsa, County of Tulsa, State of
Oklahoma, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

TULSA FREELANCE REPORTERS
918-587-2878

EXHIBIT
B

1 differences might be an SOP might be more of a
2 form-type of document that might lay the steps but
3 might not have, you know, an introduction, and a
4 sampling analysis plan might have a little more
5 background to the project and things like that.

09:41AM

6 Q Okay, but would a sampling analysis plan
7 contain, for instance, procedures to be followed in
8 a field investigation?

9 A Yes.

10 Q Okay. So basically you're saying that an SOP
11 is more detailed?

09:41AM

12 A No, I wouldn't say it's more detailed.

13 Q I guess I'm not understanding the distinction.

14 A I think the format, you know, might be
15 different. I would think of a sampling analysis
16 plan, I think I just mentioned this, might have a
17 little more background to the project and would
18 identify, you know, how you are going to, you know,
19 collect samples and, you know, the types of
20 equipment you're going to use and all the things
21 necessary to get good, you know, reliable samples,
22 and I think an SOP more might be something that's
23 more -- more of a format thing, more of a set of,
24 you know, numbered instructions.

09:42AM

09:42AM

25 Q Okay. Okay. So those distinctions being

09:42AM

1 whatever they are aren't -- have you ever actually
2 drafted an SOP?

3 A Not an SOP per se.

4 Q Okay.

5 A I have drafted procedures for conducting, you 09:43AM
6 know, activities --

7 Q Okay.

8 A -- that I wouldn't necessarily call it -- I
9 wouldn't use the terminology SOP.

10 Q Okay. You ever collected a poultry waste or 09:43AM
11 litter sample?

12 A No.

13 Q You ever collected any animal waste or litter
14 sample?

15 A Animal waste, yes. 09:43AM

16 Q What kind?

17 A Cow manure.

18 Q What project?

19 A It was in Wisconsin.

20 Q In Wisconsin, and what type of project was it? 09:44AM

21 A I think it was in CNMP development.

22 Q Say that again.

23 A We were developing comprehensive nutrient
24 management plans.

25 Q For cattle operations? 09:44AM

TULSA FREELANCE REPORTERS
918-587-2878

1 Q Who took the seep sample?

2 A Someone, another CRA employee.

3 Q Okay, and was that pursuant to an SOP?

4 A Yes, it was.

5 Q And would CRA retain that SOP? 09:48AM

6 A Yes, yes.

7 Q Okay. Have you ever taken a residential well
8 sample?

9 A Yes.

10 Q Outside of this project? 09:48AM

11 A Yes.

12 Q And when was that?

13 A 1985.

14 Q What site was that?

15 A I don't recall the name of the site. It was a 09:49AM
16 home in Ontario.

17 Q What was the purpose for taking the -- this
18 residential well sample?

19 A I don't recall; I don't recall. It was a long
20 time ago. 09:49AM

21 Q Okay, and was that done pursuant to an SOP?

22 A I don't recall.

23 Q Okay. Have you ever conducted environmental
24 sampling concerning non-point source runoff?

25 A No. 09:50AM

TULSA FREELANCE REPORTERS
918-587-2878

1 Q Have you ever conducted an environmental
2 investigation of an entire watershed?

3 A No.

4 Q Have you ever conducted soil sampling for the
5 purposes of investigating soil phosphorus content? 09:50AM

6 A No.

7 Q More generally, have you ever conducted soil
8 sampling for the purpose of investigating soil
9 nutrient content?

10 A Soil sampling? 09:51AM

11 Q Yes.

12 A No.

13 Q Have you ever conducted soil sampling for the
14 purpose of investigating bacteria content?

15 A No. 09:51AM

16 Q Have you ever conducted surface or groundwater
17 sampling for the purpose of investigating phosphorus
18 levels?

19 A No.

20 Q Have you ever conducted surface or groundwater 09:51AM
21 sampling for the purposes of investigating nutrient
22 levels?

23 A Do you mind repeating the question?

24 Q Yeah. Have you ever -- this is kind of just
25 the more general question. Have you ever conducted 09:52AM

TULSA FREELANCE REPORTERS
918-587-2878

1 surface or groundwater sampling for the purposes of
2 investigating nutrient levels?

3 A No.

4 Q Okay. Have you ever taken an edge of field
5 sample? 09:52AM

6 A That's a broad question. Can you be more
7 specific, please?

8 Q Well, like, for instance, a sample of material
9 that's running off of a field.

10 A What kind of material? 09:52AM

11 Q Any.

12 A A sample of material that's running off a
13 field? Not that comes to mind, no.

14 Q Okay.

15 A Can I get some water, please? 09:53AM

16 Q Do we need to break?

17 A I don't need a break. I just want some water.

18 MR. McDANIEL: We got about ten minutes or
19 so until the end of the tape, so go ahead.

20 Q As part of CRA's work on this project, did CRA
21 actually take any samples? 09:53AM

22 A I'm not aware that we took samples.

23 Q Okay. Did you take or collect split or
24 co-located samples that were collected by CDM?

25 MR. McDANIEL: Object to the form. 09:53AM

1 Q What about groundwater?

2 A I don't know.

3 Q Soil samples?

4 A I don't know.

5 Q Has anyone analyzed these split samples to 09:56AM
6 your knowledge?

7 A I believe -- I believe at least some of the
8 samples were analyzed.

9 Q By whom?

10 A I don't -- I can't tell you or I don't know 09:56AM
11 the name of the laboratory, laboratory or
12 laboratories.

13 Q Have you reviewed any of the analytical data?

14 A No, I haven't.

15 Q Has anyone from CRA reviewed the analytical 09:56AM
16 data?

17 A I don't believe so, no.

18 Q Okay. Do you know what the purpose was for
19 taking the splits?

20 A No, I don't. 09:57AM

21 Q Do you know the purpose of the analysis of the
22 splits?

23 A No. I wasn't involved in that part of the
24 project.

25 Q Okay. Do you know whether anyone retained by 09:57AM

TULSA FREELANCE REPORTERS
918-587-2878

1 ever implemented a soil sampling SOP?

2 A Yes.

3 Q Okay, and what was that?

4 A I'd like to rephrase that. I implemented a
5 sampling analysis plan, in which soil sampling was a 10:18AM
6 component of that.

7 Q Okay. So you haven't actually during your
8 time as a project manager implemented a soil
9 sampling SOP?

10 A I've implemented a soil sampling analysis 10:18AM
11 plan. I don't normally -- I use the term sampling
12 analysis plan.

13 Q Okay, but you did testify earlier that in your
14 mind there's a distinction between an SOP and a
15 sampling analysis plan? 10:18AM

16 A Yes.

17 Q Okay, and just to clarify again, the -- during
18 your experience as a project manager, you haven't
19 implemented what you would consider to be a soil
20 sampling SOP; correct? 10:19AM

21 A Correct.

22 Q What was the -- what was the sampling analysis
23 plan that had aspects of soil sampling that you
24 implemented?

25 A Can you ask the question again? 10:19AM

1 Q Okay. When was the last time that you
2 actually collected a soil sample?

3 A I don't know the date. Several years ago.

4 Q Could you give me a range?

5 A I would guess in the early, you know, early 10:37AM
6 2000s, maybe around 2000.

7 Q Okay. Would that have been the project at
8 Sacramento?

9 A No.

10 Q What project would that have been? 10:37AM

11 A I can't think offhand the last time I
12 collected a soil sample. It's been several years,
13 like I said.

14 Q Okay. So you don't recall a specific project?

15 A No. 10:37AM

16 Q Mr. Churchill, do you consider yourself to be
17 an expert on environmental sampling?

18 A Yes.

19 Q And what's the basis for that belief?

20 A I've had a lot of experience collecting 10:38AM
21 environmental samples of many different sample
22 medium. I'm very familiar with EPA guidances and
23 industry standards on collection of samples, of
24 environmental samples.

25 Q Okay. Industry standards you just mentioned, 10:38AM

TULSA FREELANCE REPORTERS
918-587-2878

1 and that's mentioned several times in your report,
2 is it not?

3 A Yes.

4 Q When you use industry standards in your
5 report, what industry are you referring to? 10:38AM

6 A The environmental industry.

7 Q From where do you derive these industry
8 standards?

9 A Well, US EPA is one source. There might be
10 other state guidances. 10:39AM

11 Q Any others?

12 A Not that come to mind. I suppose there could
13 be local guidances but that would not be the norm.

14 Q Do you agree with me that there can be
15 professional disagreements about what the industry 10:39AM
16 standards are?

17 MR. McDANIEL: Object to the form.

18 A Do you mind asking the question again?

19 Q Yeah. Do you agree with me that there can be
20 professional disagreements about what the industry 10:39AM
21 standards are?

22 MR. McDANIEL: Object to the form.

23 A I believe there shouldn't be disagreements on
24 that. I mean, people who are involved in the
25 environmental industry, particularly those involved 10:40AM

**TULSA FREELANCE REPORTERS
918-587-2878**

1 soil samples were analyzed for bacteria, yes.

2 Q Okay, and your testimony is that but you've
3 done no analysis of that data?

4 A I've done no analysis of the data, but I don't
5 feel I need to do an analysis of the data. 12:30PM

6 Q Okay. Gotcha. On Page -- I hope this is
7 right -- 15 of your report, the first full
8 paragraph, you claim that CRA believes that some or
9 all of the modifications that you discussed, and
10 that's in the context of making them what you say is 12:30PM
11 less stringent; correct?

12 A Yes.

13 Q Okay. That those modifications to make
14 revisions in 8 and 9 less stringent may have been
15 made to compensate for the fact that CDM's sampling 12:31PM
16 personnel were not properly following the sampling
17 and equipment decontamination procedures and
18 sampling QA/QC requirements specified in the CDM
19 work plan in Revision 7 of SOP 5-1; do you see that?

20 A Yes. 12:31PM

21 Q And you use the word may there, do you not?

22 A Yes, I used that word.

23 Q Do you have any personal knowledge about the
24 actual reason that any of those changes to Revisions
25 8 or 9 were made? 12:31PM

TULSA FREELANCE REPORTERS
918-587-2878

1 Q You think you know?

2 A Well, I do know.

3 Q Okay. So you want to revise your report now?

4 A No. I know all --

5 Q Now you say you do know. In your report you 12:34PM
6 say you believe that the changes may have been made
7 because. Now you're saying you do not.

8 A Based on the information I have, I believe
9 it's an applicable opinion.

10 Q Okay. Do you know or don't you -- 12:34PM

11 MR. McDANIEL: Object to the form.

12 Q -- why the changes were made?

13 MR. McDANIEL: Object to the form. It's
14 been asked and answered. It's argumentative.

15 Q You can answer. 12:34PM

16 A Pardon me?

17 Q You can answer.

18 A Based on the information I have, I believe the
19 statement is accurate, and so --

20 Q The statement in the report is accurate? 12:34PM

21 A Right.

22 Q Okay. Did you ever conduct any analysis as to
23 whether any of the -- these modifications to

24 Revision 8 or 9 had any impact at all on the soil or

25 litter sampling data? 12:35PM

**TULSA FREELANCE REPORTERS
918-587-2878**

A We did not conduct any analysis, but you don't need to conduct an analysis to know that, you know, not decontaminating sampling equipment, and when I see a soil probe driven through a cow patty, I don't need to conduct an analysis or review data to say that it would have had an impact.

12:35PM

Q Okay. So, again, the answer is no, you did not conduct any analysis of the data?

A You do not need to conduct an analysis to do that.

12:35PM

Q And you did not?

A That's correct, I did not.

Q Would you agree with me that the word may indicates a degree of speculation?

MR. McDANIEL: Object to the form.

12:36PM

A Yes.

Q Okay. Did you ever make any inquiry to CDM as to any of their reasons why any of the revisions were made to Version 8 or 9 of SOP 5-1?

A We did not inquire to CDM, no.

12:36PM

Q Okay. Did any CDM personnel notify you that he or she was confused about the meaning of the term grid, subarea grid location, sampling area or sampling location?

A First part of your question said did any CDM

12:37 PM

TULSA FREELANCE REPORTERS
918-587-2878

1 back the previous question at Page 109, Lines
2 10-14.)

3 A Okay. That's not it. That's fine.

4 Q Okay. Prior to your work on this project,
5 have you ever done an analysis of whether cross
6 contamination had occurred in a field investigation?

01:46PM

7 A No, I hadn't.

8 Q Okay.

9 A We didn't need to do an analysis here.

10 Q Okay. The answer is no; right?

01:46PM

11 A Correct.

12 Q Okay. Can you point to any part of the SOPs
13 generated by CDM which required decontamination
14 between soil samples within a single core sample?

15 A The beginnings of that -- I heard the last
16 part of that, but the beginning of the question was?
17 I'm sorry.

01:47PM

18 Q Can you point to any part of the COPs -- SOPs
19 generated by CDM which required decontamination
20 between soil samples within a single core sample?

01:47PM

21 A No.

22 Q Can you point to any part of the SOPs
23 generated by CDM which required decontamination
24 between cores within a grid location?

25 A No.

01:47PM

TULSA FREELANCE REPORTERS
918-587-2878

1 going to remove these things that were, you know,
2 seemingly visible. You know, what about the
3 components that wouldn't have been visible and the
4 smaller components that wouldn't pass through a
5 sieve, okay? I believe all of those would have
6 affected the, you know, integrity of the sample and
7 the analytical results.

02:39PM

8 Q But, again, you didn't review any of the
9 analytical results, did you?

10 A No, no. When you know it's in the samples and
11 what the samples come into contact with, you don't
12 need to.

02:39PM

13 Q Object as non-responsive. Going down to the
14 sixth bullet point beginning with -- it says the
15 sample, do you see that, sample will be hand mixed?

02:39PM

16 A Right.

17 Q Will you read that into the Record?

18 A Sure. The sample will be hand mixed using the
19 plastic scoop or stainless spoon for at least five
20 minutes or until particles are of uniform size.

02:40PM

21 Q And you don't know one way or the other
22 whether the CDM lab complied with this procedure, do
23 you?

24 A That's correct.

25 Q Did you consider the impact of this

02:40PM

1 **A** I believe so.

2	Q	Where?
---	---	--------

3 **A** When I discussed the reliability of the data
4 or the representativeness of the data.

5 Q Okay. I don't recall ever seeing any
6 discussion of this process in your report.

7 **A** There might be -- I think what you asked me is
8 whether I considered that, and the idea is, yes, I
9 considered it. Doesn't mean I spelled it out, that
10 fact in the work.

11 Q Okay. How did you consider it?

12 **A** Well, I considered that, you know, various
13 constituents, and I'm thinking most in particular
14 the soil samples, such as manure that might have
15 been on the probe might have gone into the samples.

16 You know, some of that material would have been
17 expected to break down and, you know, and pass
18 through a sieve, and then so would actually be
19 included in the portion of the sample that was
20 actually analyzed. So I considered that when I was,
21 you know, making comments about the
22 representativeness of the data.

23 Q Did you do any analysis of the potential
24 weight of that material that would actually make it
25 through this mixing and sieving process?

TULSA FREELANCE REPORTERS
918-587-2878

1 **A** No, I did not.

2 **Q** Okay. Just for clarity, you don't have any
3 opinion as to whether the CDM lab complied with this
4 sieving process, do you?

5 **A** No, no. 02:43PM

6 **Q** Okay. If you turn to page -- back to your
7 report, Page 31, starting with the second sentence
8 of the first full paragraph that begins with
9 statements.

10 **A** Uh-huh. 02:44PM

11 **Q** Could you read that through the end of the
12 paragraph, please, into the Record?

13 **A** Okay. I just want to read the first part of
14 this as well. Hold on.

15 **Q** Okay. 02:44PM

16 **A** Statements made by CDM in Section 3.1.2, Page
17 3-21 of the Olsen report, however, would indicate
18 that the, quote, absence of cross contamination, end
19 quote, portion of CDM's definition of representative
20 was not important to CDM, specifically in the second 02:45PM
21 paragraph of Section 3.1.2, cross contamination
22 evaluation. On Page 3-21 of the Olsen report, it
23 states, quote, for this data use, any cross
24 contamination between the intervals would not matter
25 because an average value of all three intervals is 02:45PM

TULSA FREELANCE REPORTERS
918-587-2878

A Well, I might not necessarily -- I don't agree that you can -- based on the way the soil samples were collected, I don't believe you could average the individual results and come up with a number that's representative of the top six inches.

03:02PM

Q Okay. Going over to 3-23, do you see that table in the middle of the page?

A Yes.

Q Do you recall reviewing this in preparation of either of your reports?

03:02PM

A No, not really. I glanced at it, and I didn't review it in any detail for sure.

Q Do you understand that this table shows Dr. Olsen's calculation of the maximum amount of cross contamination in all soil intervals from soil remaining on the core probe?

03:03PM

MR. McDANIEL: Object to the form.

A Yeah. I don't know what he's trying to show here. Looks like he's trying to show some RPDs.

Q Okay.

03:03PM

A I don't know.

Q So if you don't know, am I correct that you haven't conducted any analysis to respond to the data in this table?

A I don't need to conduct an analysis to know

03:03PM

TULSA FREELANCE REPORTERS
918-587-2878

1 that samples were compromised.

2 Q So that's a no, you haven't?

3 A Not to conduct an analysis, no.

4 Q Okay. Do you dispute Dr. Olsen's finding that

5 the potential changes in concentrations caused by 03:03PM

6 maximum amount of possible cross contamination on

7 the core probe do not result in any substantial

8 concentration changes, and the relative percent

9 changes are always much less than that observed due

10 to documented variability in the soil and laboratory 03:04PM

11 analysis?

12 MR. McDANIEL: Object to the form.

13 A Yes, I dispute that.

14 Q On what basis?

15 A The basis that I think his calculations did 03:04PM

16 not include -- his calculations of cross

17 contamination did not include some of the largest --

18 some of the greatest reasons why soil samples were

19 contaminated.

20 Q Like what? 03:04PM

21 A The way the samples were collected, dragging

22 material. I mean, the sample zero to two, two to

23 four, four to six-inch depth intervals were not

24 truly representative of what they are trying to say

25 they are. 03:04PM

1 Q How do you know?

2 A Because I observed soil sample collection, and
3 I observed that material from the four to six-inch
4 layer was pulled into the sample from the two to
5 four-inch layer, and I observed that material from 03:05PM
6 the two to four-inch layer was pulled into the
7 sample from the zero to two-inch layer.

8 Q But, again, you've done no analysis,
9 statistical analysis of the potential cross
10 contamination, have you? 03:05PM

11 A Well, you don't need to do an analysis when
12 you can visually identify that you can see soil from
13 one depth interval being included in a sample that
14 they're purporting is being representative of a
15 different depth. 03:05PM

16 Q But you haven't done a statistical analysis?

17 A No, I did not make a calculation.

18 Q All right. In your report you state that
19 commenting on the Olsen report discussion of natural
20 sample variability and analytical variability is 03:05PM
21 beyond the scope of your opinions. Do you recall
22 that?

23 A Yes.

24 Q And you've not offered any measurement of
25 natural sample variability of your own which differs 03:06PM

1 that?

2 A Yes.

3 Q Is that consistent with what CRA observed in
4 the field?

5 A I don't recall seeing what they did with it 03:27PM
6 after use.

7 Q Okay. Just as a general matter, is there any
8 need to decontaminate a one-time use sampling
9 device?

10 A It's good practice, yes. The answer is yes, 03:27PM
11 there is a need to decontaminate so you know what
12 you're starting with. You know you have a clean
13 sampling equipment to start with that has not been
14 impacted by, you know, some other sources that you
15 might not even be aware of. 03:28PM

16 Q Oh. So you're saying decontaminate before you
17 take the sample?

18 A For a single use?

19 Q Yeah.

20 A Sure. You should make sure that you're using 03:28PM
21 clean equipment, and one way of making sure you're
22 using clean equipment would be to decontaminate it
23 prior to use.

24 Q Okay. Are you aware of any EPA or other state
25 guidance document that says that you should 03:28PM

TULSA FREELANCE REPORTERS
918-587-2878

1 decontaminate one-time use sampling equipment?

2 **A** It's -- I would say it's pretty common
3 knowledge in the industry to use clean equipment
4 prior to initiating a sampling program. You know,
5 you might not find an EPA guidance that specifically 03:29PM
6 states that you must decon equipment prior to single
7 use.

8 **Q** Okay.

9 **A** Just because it's not -- it may not be written
10 down doesn't mean it's not the norm and not 03:29PM
11 appropriate.

12 **Q** Is it possible to generate a decontamination
13 blank if the sampling equipment is only used once?

14 **A** I don't think you would call it a
15 decontamination blank. 03:29PM

16 **Q** Okay. So no?

17 **A** You can't generate a decontamination blank if
18 you haven't done any decontamination.

19 **Q** Right. Thank you. So with that in mind,
20 would there be any need for CDM to have an SOP 03:29PM
21 provision with respect to its litter sampling
22 program requiring the collection and submission of
23 decontamination blanks?

24 **A** Yes. It's just -- really just, you know, good
25 practice to -- do you mind repeating that? Sorry. 03:30PM

TULSA FREELANCE REPORTERS
918-587-2878

1 fertilizer leaking at the co-op with rips in them
2 and things like that. So that's why it's
3 appropriate to make sure that you have -- that you
4 know what you are starting your sampling with.

5 Q Okay. What about after the sample is taken; 03:31PM
6 then you need to have -- do a decontamination blank
7 for one-time use equipment?

8 A After a sample?

9 Q Yeah.

10 A After an environmental sample is collected? 03:31PM

11 Q Yes.

12 A Is there ever any -- you are confusing terms.
13 You wouldn't take a decontamination blank after
14 collecting a sample of the medium itself.

15 Q Right. I mean, if it's a one-time use, you're 03:32PM
16 not decontaminating it after you use it; you're not
17 going to collect a decontamination blank?

18 A It was appropriate to -- if they were not
19 going to decontaminate their equipment, for sure
20 it's appropriate to collect, you know, a blank. 03:32PM
21 Call it a field blank, call it a presample
22 collection blank, sampling equipment
23 characterization blank.

24 Q Okay. Thank you. You are -- you're also
25 critical of CDM for leaving the manufacturer's label 03:32PM

1 on the shovel prior to taking litter samples;
2 correct?

3 A Yes.

4 Q If CDM had removed the label, would you have
5 any concern that the adhesive residue could cause 03:33PM
6 litter to stick to the shovel?

7 A Yes.

8 Q Okay. If CDM had removed the label, would you
9 have any concern about the adhesive residue being
10 introduced into the litter samples? 03:33PM

11 A Yes.

12 Q Do you contend that the label material itself
13 posed any significant measurable contribution to any
14 of the litter analytical parameters?

15 A I don't -- I don't have the information to, 03:33PM
16 you know, formulate an opinion on how much may have
17 gotten there. I can just tell you it's not the norm
18 to sample without knowing what is on the sampling
19 equipment.

20 Q Have you conducted any analysis of whether any 03:33PM
21 labeling material impacted the litter sampling data?

22 A No. I've conducted enough sampling that I
23 know that you're not supposed to leave labels on
24 your sampling equipment prior to collecting samples.

25 Q Is there -- can you point me to any guidance 03:34PM

1 document that says that?

2 **A** No. I mean, like I've said, not everything
3 has to be written down to know it's not the standard
4 of care that you do.

5 **Q** But that's your standard? 03:34PM

6 **A** I think that's a -- pretty much an industry
7 standard.

8 **Q** Okay. Going back to 5-1, if you look at Page
9 9 and, again, this is Exhibit 6. Are you there?

10 **A** Yes. 03:35PM

11 **Q** Do you see Subsection 4.6?

12 **A** Yes.

13 **Q** And what's the heading?

14 **A** Decontamination Procedures.

15 **Q** Would you read the first sentence into the 03:35PM
16 Record, please?

17 **A** Full decontamination will occur between every
18 LAL property or upon exit of the grower's field onto
19 a public right-of-way.

20 **Q** Do you agree that Subsection 4.6 is the 03:35PM
21 decontamination procedure subsection of Revision 9?

22 **A** No. I believe that's one place where
23 decontamination is mentioned.

24 **Q** What's -- again, what's the heading?

25 **A** The heading is Decontamination Procedures. 03:36PM

TULSA FREELANCE REPORTERS
918-587-2878

1 Q Yeah. Based on your observations and that you
2 document.

3 A The total weight from all depth intervals that
4 was emptied into a sample bag, that's all sample
5 inter -- all the material from all sample intervals 04:19PM
6 were not emptied into a sample bag. CDM attempted
7 to collect the zoned samples. So they collected,
8 you know, material. You know, at any given probe
9 location, they tried to collect three discrete
10 samples. 04:19PM

11 Q Right, but your complaint is about tipping the
12 soil sample probe to empty remaining soil into the
13 sample bag; that was an observed claimed deficiency;
14 correct?

15 A Yes, that's correct. 04:19PM

16 Q And what I'm asking is, do you know what the
17 total weight of that remaining soil from the sample
18 depth intervals is?

19 A I think I might have done some
20 back-of-the-envelope type of calculations to 04:20PM
21 indicate that, you know, the weight of material in a
22 two-inch depth interval might have been on the
23 order, if I recall correctly, of, you know, 100
24 grams, but, you know, that would assume he had full
25 recovery, but if, you know, by tipping the probe, 04:20PM

1 you are also getting material from lower depth
2 intervals, you know, into that sample bag as well.

3 Q Okay.

4 A You know, it depends on what -- you know, how
5 much recovery you actually got in the probe and, you 04:20PM
6 know, how much was left in there from the
7 previous -- from the lower sample intervals, you
8 know, when they went to tip the bag.

9 Q Is that calculation reflected in the report?

10 A No, it's not in the report. 04:21PM

11 Q You talked about this several times today, but
12 you also complain about alleged observed instances
13 where the sampling probe was advanced through cow
14 manure; correct?

15 A Correct. 04:21PM

16 Q And CRA claims to have observed twelve
17 sampling areas where the probe was advanced through
18 cow manure; correct?

19 A Do you mind if I just check a number here?

20 Q That's fine. 04:21PM

21 A You said twelve sampling areas; correct?

22 Q Yeah.

23 A Yes.

24 Q Okay. Do you know how many of these twelve
25 sampling areas, samples from these twelve sampling 04:22PM

TULSA FREELANCE REPORTERS
918-587-2878

1 Q If you haven't conducted any analysis of the
2 FAC-08 data, how can you be sure that there was in
3 fact soil from the poultry house floor in that
4 sample?

5 A One of our field people observed and 04:44PM
6 documented that it was present in the sample.

7 Q So just based on the observation?

8 A Yes.

9 Q Okay. Aside from FAC-06, which is dropped
10 from the evaluation, and FAC-08, do you assert that 04:44PM
11 there are any other litter samples which were
12 compromised by the presence of soil on the poultry
13 house floor?

14 A I can't testify that there were more. I don't
15 have any direct evidence that there were. I can 04:45PM
16 tell you that the numbers in this table represent
17 the minimum. I can't tell you -- I cannot tell you
18 that there were more than that.

19 Q You just don't know one way or the other?

20 A I can tell you that there were at least two 04:45PM
21 samples. I can't say any more than that.

22 Q Okay. You claim in your report that litter
23 composite samples were not properly mixed. Do you
24 recall that?

25 A Yes. 04:45PM

TULSA FREELANCE REPORTERS
918-587-2878

1 essentially all of the sampling activities that we
2 were involved in, I believe that would have been
3 documented, yes.

4 Q By either video or --

5 A By either video or -- 04:51PM

6 Q By video or still picture?

7 A Yes.

8 Q Do you agree that litter from the production
9 of poultry within the Illinois River watershed
10 contains phosphorus? 04:51PM

11 A Do I believe that poultry litter contains --
12 from the IRW contains phosphorus?

13 Q Yes.

14 A I would believe after a reasonable -- I
15 believe that's reasonable, yes. 04:51PM

16 Q Do you agree that litter from the production
17 of poultry within the IRW contains bacteria?

18 MR. McDANIEL: I want to object. It's
19 outside the scope of his report. Go ahead.

20 A Yeah. You know, we're getting probably beyond 04:52PM
21 my area of expertise on, you know, the exact
22 constituents contained in poultry litter.

23 Q Okay. You've also been critical of CDM for
24 certain spring sampling activities; correct?

25 A That's correct. 04:52PM

TULSA FREELANCE REPORTERS
918-587-2878

1 Q Specifically you claim that certain spring
2 samples contain suspended sediments; correct?

3 A Correct.

4 Q Did you examine any of the actual spring
5 sampling data?

04:52PM

6 A No, I did not examine the data.

7 Q So you don't know whether the spring sampling
8 data showed the presence of suspended sediment?

9 A You don't need to review data to observe that
10 water samples were collected from areas with
11 suspended sediments.

04:53PM

12 Q But the answer is, no, you don't know
13 whether --

14 A There's no reason -- no need to review the
15 data to come up with that conclusion.

04:53PM

16 Q That's not my question. I'm just asking you a
17 simple question of whether you know whether any of
18 the spring sampling data showed the presence of
19 suspended sediments. Do you know?

20 A No, I don't know if the data showed that. I
21 know my eyes showed that.

04:53PM

22 Q Do you know how many samples CDM took from
23 each spring sampling location?

24 A How many samples meaning, you know, how many
25 individual samples like how many individual sample

04:54PM